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Group Art Unit: 1752
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FROM: James E. Armstrong IV
OF
ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP

RE: U.S. PATENT APPLICATION
SERIAL NO. 10/038,875
Atty. Docket No.: 011786

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Person signing certification:


James E. Armstrong IV, Reg. No. 42,266

August 9, 2004

Date

Attny.Docket No. 011786

TERMINAL DISCLAIMER TO OBLIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT

Docket Number
011786

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **HONMA, Itaru et al.**

Group Art Unit: 1752

Serial No.: **10/038,875**

Examiner: **HOA VAN LE**

Filed: **January 8, 2002**

P.T.O. Confirmation No.: 6435

For: **Proton-Conducting Membrane, Method for Producing the Same, and Fuel Cell Using the Same**

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Washington, D. C. 22313-1450

August 9, 2004

Sir:

The undersigned, **James E. Armstrong, IV**, is attorney of record in the above-identified patent application. The terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. **6,680,138** is hereby disclaimed, except as provided below. It is agreed that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

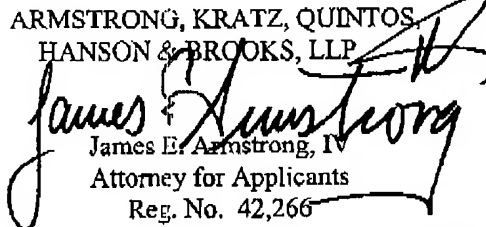
In making the above disclaimer, disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

This disclaimer is submitted on behalf of **National Institute of Advanced Industrial Science and**

Technology, Itaru Honma and Sekisui Chemical Co., Ltd., all Japanese companies, on whose behalf the undersigned is empowered to act, which owe the entire and exclusive right, title and interest to the invention entitled **Proton-Conducting Membrane, Method for Producing the Same, and Fuel Cell Using the Same**, for which the above-identified patent application was filed on **January 8, 2002**, Serial No. **10/038,875**, and all Letters Patent of the United States to be obtained therefor on said application or any continuation, divisional, substitute, reissue or reexamination thereof for the full term or terms for which the same may be granted, by virtue of an assignment from the inventor(s) of the above-identified patent application. The assignment was recorded in the Patent and Trademark Office at Reel **(012910)**, Frame **(0012)**, or a copy thereof is attached.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

ARMSTRONG, KRATZ, QUINTOS,
HANSON & BROOKS, LLP

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PATENT TRADEMARK OFFICE

- XX The Commissioner is hereby authorized to charge Terminal disclaimer fee under 37 CFR 1.20(d) in the amount of \$130.00 to Deposit Account No. 01-2340.
- XX PTO suggested wording for terminal disclaimer was
XX unchanged. changed (as described in attached explanation).

Enclosure: A copy of Notice of Recordation of Assignment Document

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